

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Representative Capp

A Bill

HOUSE BILL 1516

For An Act To Be Entitled

8 AN ACT TO ALLOW A FOUNDATION TO SERVE AS A FIDUCIARY;
9 TO PROVIDE FOR A FOUNDATION TO SERVE AS AN EXECUTOR
10 OF AN ESTATE; AND FOR OTHER PURPOSES.

Subtitle

14 TO ALLOW A FOUNDATION TO SERVE AS A
15 FIDUCIARY; AND TO PROVIDE FOR A
16 FOUNDATION TO SERVE AS AN EXECUTOR OF AN
17 ESTATE.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code § 23-51-102(a)(14), concerning the definition
23 of "company" under the Arkansas Trust Institutions Act, is amended to read as
24 follows:

25 (14) "Company" includes a bank, trust company, subsidiary trust
26 company, corporation, limited liability company, partnership, association,
27 business trust, foundation, or another trust;

29 SECTION 2. Arkansas Code § 23-51-102(a)(54), concerning the definition
30 of "unauthorized trust activity" under the Arkansas Trust Institutions Act,
31 is amended to read as follows:

32 (54) ~~(A)~~ "Unauthorized trust activity" means:

33 ~~(A)(i)~~ A company, other than one identified in § 23-
34 51-165(a), acting as a fiduciary within this state;

35 ~~(B)(ii)~~ A company engaging in a trust business in
36 this state at any office of the company that is not its principal office, if



1 ~~if the company~~ is a state trust institution, or that is not a trust office or
 2 a representative trust office of the company; or

3 ~~(C)(iii)~~ An out-of-state trust institution engaging
 4 in a trust business in this state at any time an order issued by the
 5 commissioner ~~pursuant to~~ under § 23-51-182 is in effect~~;~~.

6 (B) "Unauthorized trust activity" does not include a
 7 foundation serving as a fiduciary;

8
 9 SECTION 3. Arkansas Code § 23-51-102(a), concerning definitions under
 10 the Arkansas Trust Institutions Act, is amended to add an additional
 11 subdivision to read as follows:

12 (57)(A) "Foundation" means an organization that is organized and
 13 operated for religious, educational, or charitable purposes, as defined in
 14 section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. §
 15 501(c)(3), as it existed on January 1, 2019.

16 (B) "Foundation" does not include a private foundation as
 17 defined in section 509(a) of the Internal Revenue Code of 1986, 26 U.S.C. §
 18 509(a).

19
 20 SECTION 4. Arkansas Code § 23-51-165 is amended to read as follows:
 21 23-51-165. Companies authorized to act as fiduciaries.

22 (a) ~~No~~ A company shall not act as a fiduciary in this state except:

23 (1) A state trust company;

24 (2) A state bank;

25 (3) An association organized under the laws of this state and
 26 authorized to act as a fiduciary ~~pursuant to~~ under § 23-37-101 et seq.;

27 (4) A national bank having its principal office in this state
 28 and authorized by the United States Comptroller of the Currency to act as a
 29 fiduciary ~~pursuant to~~ under 12 U.S.C. § 92a;

30 (5) A federally chartered savings association having its
 31 principal office in this state and authorized by its federal chartering
 32 authority to act as a fiduciary;

33 (6) A subsidiary trust company authorized to act as a fiduciary
 34 under § 23-47-801 et seq.;

35 (7) An out-of-state bank with a branch in this state established
 36 or maintained ~~pursuant to~~ under the Arkansas Interstate Banking and Branching

1 Act, § 23-48-901 et seq., or a trust office licensed by the Bank Commissioner
2 ~~pursuant to~~ under this chapter;

3 (8) An out-of-state trust company with a trust office licensed
4 by the commissioner ~~pursuant to~~ under this chapter; or

5 (9) A foundation.

6 (b) ~~No~~ A company shall not engage in an unauthorized trust activity.

7
8 SECTION 5. Arkansas Code § 23-51-166, concerning activities that are
9 not considered trust business under the Arkansas Trust Institutions Act, is
10 amended to add an additional subdivision to read as follows:

11 (12) If the company is a foundation, serving as a fiduciary.

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